

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

JOSE S. GARZA,
Plaintiff

v.

NATIONAL OILWELL VARCO, LP,
Defendant

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CA: H-4:12-cv-03532
Jury

PLAINTIFF'S MOTION IN LIMINE

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Plaintiff respectfully moves the court to exclude from the hearing of the jury the following matters:

1. That in 1992 Plaintiff filed a charge of race discrimination with the Equal Employment Opportunity Commission against his former employer Cooper Manufacturing. That matter is not relevant to the matter at bar and should not be admitted under Federal Rule of Evidence 401. ("Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.") That Plaintiff filed a discrimination charge in 1992 has no bearing on the determination of the pending action. The 1992 charge of discrimination did not result in litigation.

Alternatively, should the court be inclined to find that matter relevant, it should nevertheless be excluded under Federal Rule of Evidence 403 because "its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence." The 1992 matter related to race discrimination and the current matter

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relates to sexual harassment and retaliation.

2. That in 2004 or 2005 Plaintiff filed a charge of disability discrimination (failure to hire) with the Equal Employment Opportunity Commission against Tesco Corporation. That matter is not relevant to the matter at bar and should not be admitted under Federal Rule of Evidence 401. ("Relevant evidence means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable than it would be without the evidence.") That Plaintiff filed a disability discrimination charge in 2004 or 2005 has no bearing on the determination of the pending action. The 2004 charge of discrimination did not result in litigation.

Alternatively, should the court be inclined to find that matter relevant, it should nevertheless be excluded under Federal Rule of Evidence 403 because "its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

WHEREFORE, PREMISES CONSIDERED, Plaintiff respectfully moves the court to grant this motion.

Respectfully submitted,

BY: 

Peter Costea

TBN 04855900

Three Riverway, Suite 1800

Houston, Texas 77056

Tel. 713/337-4304

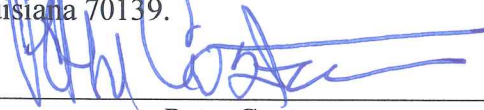
Fax 713/659-5302

ATTORNEY FOR PLAINTIFF

JOSE S. GARZA

CERTIFICATE OF SERVICE

I certify that on July 11, 2014 a true and correct copy of the foregoing pleading was served electronically by the clerk of the court on counsel for the Defendant, Mr. Jacob Credeur, Ogletree, Deakins, Nash, Smoak & Stewart, P.C., One Shell Square, 701 Poydras Street, Suite 3500, New Orleans, Louisiana 70139.



Peter Costea

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ORDER

The court makes the following rulings on Plaintiff's Motion in Limine:

1. Sustained _____ Overruled _____
2. Sustained _____ Overruled _____

Signed this _____ day of _____, 2014.

Nancy Atlas, US District Judge